

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

CASEY MULLINS, et al.

*

Plaintiffs

*

v.

*

Case No: WDQ-02-CV-1634

BALTIMORE CITY MARYLAND, et al.

*

Defendants

*

* * * * *

**ANSWER TO AMENDED COMPLAINT AND AFFIRMATIVE DEFENSES OF
DEFENDANT OFFICER JAN ROLLON**

Now comes Defendant Officer Jan Rollon, by and through his undersigned counsel, who answers the Plaintiffs' Amended Complaint in the above-captioned case, asserts affirmative defenses, and states and avers as follows:

FIRST DEFENSE

The Amended Complaint and each and every allegation thereof fails to state any legal claim or claims upon which relief can be granted.

SECOND DEFENSE

Defendant generally denies all allegations and averments in the Amended Complaint.

THIRD DEFENSE

Any arrests, searches or detentions of the Plaintiffs were lawful, and any seizures from them were lawful.

FOURTH DEFENSE

There was probable cause to arrest, search or detain the Plaintiffs, and to make seizures from them.

FIFTH DEFENSE

Defendant did not act with malice.

SIXTH DEFENSE

Defendant acted reasonably under the circumstances with respect to his actions and the incidents alleged in the Amended Complaint and he acted in good faith.

SEVENTH DEFENSE

The actions of Defendant were privileged. Since Defendant was performing lawful duties as a member of the Baltimore Police Department, he is entitled to qualified immunities that bar the claims for relief asserted in the Amended Complaint.

EIGHTH DEFENSE

To the extent the Plaintiffs suffered any injuries, losses or damages as a result of the actions and incidents alleged in the Amended Complaint, they were proximately caused by the conduct of the Plaintiffs or by the conduct of other persons or parties for whom Defendant was not and is not responsible or liable.

NINTH DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the applicable statute of limitations, and by the doctrines of laches.

TENTH DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the doctrine of unclean hands.

ELEVENTH DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the doctrine of assumption of the risk.

TWELFTH DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the doctrine of contributory negligence.

THIRTEENTH DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the doctrine of waiver.

FOURTEENTH DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the doctrine of governmental immunity.

FIFTEENTH DEFENSE

Plaintiffs have failed to mitigate their alleged damages.

SIXTEENTH DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the doctrines of estoppel, res judicata and collateral estoppel.

SEVENTHTEENTH DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the doctrine of illegality.

EIGHTEENTH DEFENSE

Plaintiffs claims are barred because they have failed to give notice of the respective claim or claims alleged in their Amended Complaint as required by Md. Cts. & Jud. Proc. Code Ann. § 5-304.

NINETEENTH DEFENSE

Plaintiffs have failed to join in this action all the parties who must be joined as required by law.

WHEREFORE, having fully answered the Amended Complaint and having asserted affirmative defenses, Defendant Officer Jan Rollon prays that this Honorable Court will dismiss the Amended Complaint with costs taxed to Plaintiffs.

Respectfully submitted,

/s/ Neal M. Janey
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Attorney for Defendant

Officer Jan Rollon

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of January, a true copy of the foregoing Answer to Amended Complaint was filed and if necessary, hard copies will be mailed, in accordance with the Electric Filing Requirements and Procedures of the United States District Court for the District of Maryland.

/s/ Neal M. Janey
Neal M. Janey